

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE:

THE GREAT ATLANTIC & PACIFIC TEA
COMPANY, Inc., *et al.*,¹

Debtors.

THE GREAT ATLANTIC & PACIFIC TEA
COMPANY, INC. *et al.*

Plaintiff,

v.

PEPSICO, INC, et al,

Defendants.

Chapter 11

Case No. 15-23007 (RDD)

(Jointly Administered)

Adv. Proc. No. 18-08245 (RDD)

**ORDER DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
ON COUNTS ONE THROUGH FOUR AND PARTIAL SUMMARY JUDGMENT
ON COUNTS FIVE THROUGH TWENTY-FIVE OF THE SECOND AMENDED
ADVERSARY COMPLAINT**

Upon the Defendants' Motion for Summary Judgment on Counts One Through Four and Partial Summary Judgment on Counts Five Through Twenty-Five [Dkt. Nos. 32—36] (the "Motion"); and the Court having considered the Motion, the Plaintiff's opposition to the Motion, the Defendants' reply to said opposition and the arguments of counsel concerning the Motion at

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: 2008 Broadway, Inc. (0986); The Great Atlantic & Pacific Tea Company, Inc. (0974); A&P Live Better, LLC (0799); A&P Real Property, LLC (0973); APW Supermarket Corporation (7132); APW Supermarkets, Inc. (9509); Borman's, Inc. (9761); Delaware County Dairies, Inc. (7090); Food Basics, Inc. (1210); Kwik Save Inc. (8636); McLean Avenue Plaza Corp. (5227); Montvale Holdings, Inc. (6664); Montvale-Para Holdings, Inc. (2947); Onpoint, Inc. (6589); Pathmark Stores, Inc. (9612); Plainbridge LLC (5965); Shopwell, Inc.(3304); Super Fresh Food Markets, Inc. (2491); The Old Wine Emporium of Westport, Inc. (0724); Tradewell Foods of Conn., Inc. (5748); and Waldbaum, Inc. (8599). The international subsidiaries of The Great Atlantic & Pacific Tea Company, Inc. are not debtors in these chapter 11 cases. The location of the Debtors' corporate headquarters is 19 Spear Road, Suite 310, Ramsey, New Jersey 07446.

the hearing before the Court on December 17, 2019 (“Hearing”); and after due deliberation thereon and for the reasons set forth by the Court in its bench ruling at the Hearing,

IT IS HEREBY ORDERED THAT:

1. The Motion is denied.
2. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation and enforcement of this Order.

Dated: December 30, 2019
White Plains, New York

/s/ Robert D. Drain
THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE